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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,319	01/16/2004	David Kornick	74-HA-133457/10081-010	8341
29391	7590	10/17/2005	EXAMINER	
BEUSSE BROWNLEE WOLTER MORA & MAIRE, P. A.			TRAN, DALENA	
390 NORTH ORANGE AVENUE			ART UNIT	
SUITE 2500			PAPER NUMBER	
ORLANDO, FL 32801			3661	

DATE MAILED: 10/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/759,319

Applicant(s)

KORNICK ET AL.

Examiner

Dalena Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7,9 and 10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,9 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## DETAILED ACTION

### Notice to Applicant(s)

1. This office action is responsive to the amendment filed on 8/4/05. As per request, claims 1, 5-7, and 9-10 have been amended. Claims 8, and 11-12 have been cancelled. Thus, claims 1-7, and 9-10 are pending.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-6, and 9, are rejected under 35 U.S.C. 102(e) as being anticipated by Hawthorne et al. (US 2004/0030538 A1).

As per claim 1, Hawthorne et al. disclose a communications device for controlling operation of an unmanned locomotive over a track layout in a train yard, said locomotive operable over a plurality of alternative track routes to reach a respective destination from a plurality of possible destinations in said track layout, said track layout including a plurality of switches configured to alter a route for a locomotive running along said track layout, said communications device comprising: a first user display for use by operator in commanding a desired destination for the locomotive within said track layout by setting the state of the switches along the route to the destination (see [0008] through [0010]; [0024] through [0029]; and [0036] through [0043]), and a second user display for use by operator in controlling movement of the

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locomotive along said track layout, wherein the combination of first and second user displays allows respective command and control operations to be performed by operator with respect to the unmanned locomotive for performing train yard activities (see [0012] through [0014]).

As per claim 2, Hawthorne et al. disclose the displays are made on a single display device having first and second modes of operation (see [0012] through [0014]).

As per claims 3-4, Hawthorne et al. disclose the displays are made on two display devices, one for each display, and the second display is made on a graphic user interface enabling data input from the operator (see [0015] through [0017]).

As per claim 5, Hawthorne et al. disclose a communications device to be carried by an operator for controlling operation of an unmanned locomotive over a track layout in a train yard, locomotive operable over a plurality of alternative track routes to reach a respective destination from a plurality of possible destinations in said track layout, said track layout including a plurality of switches configured to alter a route for a locomotive running along said track layout, said communications device comprising: a user display enabling operator to command a desired destination for the locomotive within said track layout by operator setting the state of the switches along the route to the destination without intervention from other personnel (see [0022] through [0029]; and [0036] through [0043]).

As per claim 6, Hawthorne et al. disclose a communications device for controlling operation of an unmanned locomotive over a track layout in a train yard, locomotive operable over a plurality of alternative track routes to reach a respective destination from a plurality of possible destinations in said track layout, said track layout including a plurality of switches configured to alter a route for a locomotive running along said track layout, said communications

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device comprising: a graphical user interface for use by operator for commanding a desired destination for said locomotive within said track layout, said graphical user interface configured to display a representation of said track layout, and wherein said representation allows an operator to monitor operational conditions of the switches that may develop along the route of the locomotive (see [0024] through [0029]; and [0036] through [0043]).

As per claim 9, Hawthorne et al. disclose the commanded desired destination from the communications device is transmitted to the train yard control system via communications equipment onboard the locomotive (see [0004] through [0007]).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7, and 10, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawthorne et al. (US 2004/0030538 A1) in view of Coombes (6,314,345).

As per claims 7, and 10, Hawthorne et al. disclose a communications device for controlling operation of an unmanned locomotive over a track layout in a train yard, said locomotive operable over a plurality of alternative track routes to reach a respective destination from a plurality of possible destinations in said track layout, said track layout including a plurality of switches configured to alter a path for a locomotive running along said track layout, said communications device comprising: a user display to be used by operator for commanding a desired destination for the locomotive within said track layout (see [0024] through [0032]; and

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[0037] through [0043])). Hawthorne et al. do not disclose verification message. However, Coombes discloses user display responsive to a verification message indicative of whether a switching combination for the locomotive route for reaching the desired destination has been executed, and the verification message is transmitted to the communication device via communication equipment onboard the locomotive (see column 6, lines 3-53). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teach of Hawthorne et al. by combining a verification message indicative of whether a switching combination for the locomotive route for reaching the desired destination has been executed to confirm the operator's command to the locomotive control.

#### **Remarks**

6. Applicant's argument filed on 8/4/05 has been fully considered. Upon updated search, the new ground of rejection as above.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dalena Tran whose telephone number is 571-272-6968. The examiner can normally be reached on M-F 6:30 AM-4:00 PM), off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on 571-272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patent Examiner

Dalena Tran

A handwritten signature in cursive script, appearing to read 'Dalena Tran', with a long horizontal flourish extending to the right.

October 13, 2005